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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,365	02/12/2004	Christopher A. Meek	MS306756.1 / MSFTP557US	5091
27195 7590 06/22/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER KIM, PAUL	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 06/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,365

Applicant(s)

MEEK ET AL.

Examiner

Paul Kim

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-9, 38 and 42-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-9, 38 and 42-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is responsive to the following communication: Request for Continued Examination filed on 16 May 2007.
2. Claims 1, 5-9, 38, and 42-46 are present and pending for examination. Claims 1 and 38 are in independent form.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 May 2007 has been entered.

Response to Amendment

4. Claims 1 and 38 have been amended.
5. Claims 2-4 and 39-41 have been cancelled.
6. No claims have been added.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
8. **Claims 1, 5-9, 38, and 42-46** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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a. Claims 1 and 5-9 recite a system comprising a managing component and a web-crawling component. As disclosed by the Applicant's specification, "the term 'component' is intended to refer to a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution" (See Specification, [0057]). Accordingly, the components may be considered to be software, per se, and therefore is non-statutory subject matter since they fail to fall within a statutory category.

Additionally, the claims are directed toward a system comprising a managing component that comprises a determination "if, when, and how to perform web-crawling," and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category. That is, wherein the determination may result in the non-performance of a web-crawling, there would be no "useful, concrete, and tangible result." See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

b. Claims 1, 5-9, 38, and 42-46 are non-statutory because the performance of a "predictive analysis" fails to yield a "useful, concrete, and tangible result." The claims fail to recite an objective standard used by the predictive analysis whereby a concrete result would occur. That is, while claims 1 and 38 provide limitations for determining an appropriate time to crawl a web page by maximizing the value of the provided formula, the claims fail to recite how said maximized value is used in scheduling the next crawl such that changed web pages are discovered and updated.

Response to Arguments

9. Applicant's arguments filed 6 December 2006 have been fully considered but they are not persuasive.

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a. 35 U.S.C. 101 Rejections

Applicant asserts the argument that the claimed invention is statutory since claim 1, as amended, "recites a server computer component that implements a web-crawling component that crawls subsets of web pages as a function of the predictive analysis." See Amendment, page 5. The Examiner respectfully disagrees in that Applicant's Specification discloses, "the term 'component' is intended to refer to a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution" (See Specification, [0057]). Accordingly, the components may be considered to be software, per se, and therefore is non-statutory subject matter since they fail to fall within a statutory category.

Additionally, Applicant asserts the argument that amended claims 1 and 38 overcome the rejection under 35 U.S.C. 101 in that they recite "an action [that] is performed that maximizes the value of a mathematical expression based on a selected outcome so as to maximize the efficiency of crawling in discovering and updating changed web pages." See Amendment, page 5. The Examiner respectfully disagrees in that while claims 1 and 38 recite an action which maximizes the value of a mathematical expression, the claims fail to recite the step of crawling for altered web pages in accordance with the maximized value. Accordingly, wherein the claims fail to recite said step of crawling in accordance with the maximized value, the claims fail to recite a "useful, concrete, and tangible result." See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

Conclusion

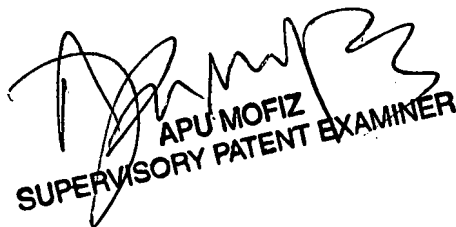
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim
Patent Examiner, Art Unit 2161
TECH Center 2100


APU MOFIZ
SUPERVISORY PATENT EXAMINER